
1991 Wis Eth Bd 7
LOBBYISTS AND LOBBYING

Non-lobbyists need not maintain an individual daily log of activities. A principal need only maintain a log for the time of its employees and individuals engaged in lobbying activities under the supervision or control of the organization. Costs incurred by a principal for research must be reported only if the cost would not have been incurred but for lobbying. Eth. Bd. 641

February 14, 1991

Facts

[1] This opinion is based upon these understandings:

- a. A registered principal will be retaining the services of an individual outside the organization to prepare a report on an issue of concern to the principal.
- b. The report is to be used as a lobbying tool.

Questions

[2] The State of Wisconsin Ethics Board understands your questions to be:

1. Must the non-lobbyist individual whom the principal retains to prepare a report keep a daily log of his or her activities while preparing the report?
2. Must the principal include the individual's time and money spent preparing the report in the principal's daily log?
3. If the report is distributed statewide, what portion of the cost of preparing the report must be included in the principal's statement of lobbying expenditures?

Discussion and Advice

[3] You have asked a number of questions concerning application of several of the new reporting requirements in the lobbying law. The answer to your first question is "no,"

the individual need not keep a log of his or her activities in preparing the report. Only lobbyists must maintain an individual log of activities.¹

[4] The answer to your second question is "no," the principal need not include the individual's time or money spent in its log. The organization need only maintain a log for the time of employees or individuals engaged in lobbying activities under the supervision or control of the organization.² In most instances, this will not include those conducting research or preparing reports under contract. However, the principal must report all payments it makes to the individual both in its daily log of lobbying expenditures and in its semi-annual statement of aggregate lobbying expenditures.³

[5] The answer to your third question is that costs incurred by a principal for research and other similar reports must be reported only if the cost would not have been incurred but for lobbying.⁴ If that is the case, but the report is used for both lobbying

¹ Section 13.68(1)(c)(2), *Wisconsin Statutes*, requires every principal semiannually to provide:

13.68(1)(c)(2) A contemporaneous record disclosing the time and resources spent on each attempt to influence legislative or administrative action in each subject area. The contemporaneous record shall be supplied on a form provided by the board and shall include an itemization of the time and resources spent on research and preparation, the time spent meeting with elective state officials, agency officials, legislative employees of the state and other state employees having decision-making authority, and any other activity which includes lobbying.

² Section 13.68(1)(c)(2), *Wisconsin Statutes*.

³ Section 13.68(1)(a)3, *Wisconsin Statutes*, requires every principal semi-annually to provide:

13.68(1)(a)3 A reasonable estimate of lobbying expenditures made and obligations incurred for conducting, compiling or preparing research, information, statistics, studies or analyses used in lobbying shall be included in the aggregate total. Lobbying expenditures and obligations shall not be reported under this subdivision if the use in lobbying occurs more than 3 years after the completion of the research or the compilation or preparation of the information, statistics, studies or analyses. If the research, information, statistics, studies or analyses are used by the principal both for lobbying and for purposes other than lobbying, the principal shall allocate the lobbying expenditures and obligations among the purposes for which the research, information, statistics, studies or analyses are used and include the portion allocated to lobbying in the aggregate total. Any estimate or allocation of expenditures and obligations made in good faith, under this subdivision, fulfills the requirements of this subdivision.

⁴ Section 13.62(10r), *Wisconsin Statutes*, provides:

and non-lobbying purposes, then the principal should allocate the costs associated with the report among its purposes and include only the portion allocated to lobbying.⁵ A good-faith allocation or estimate fulfills this requirement. If the report would have been prepared for purposes other than lobbying, then report none of the costs of its preparation. Report only costs associated with the report's actual use in lobbying such as costs of distribution to the Legislature.

13.62(10r) "Lobbying expenditure" means an expenditure related to the performance of lobbying, whether received in the form of an advance or subsequent reimbursement. The term includes an expenditure for conducting research or for providing or using information, statistics, studies or analyses in communicating with an official that would not have been incurred but for lobbying.

⁵ Section 13.68(1)(a)3, *Wisconsin Statutes*.